

MEDIATION in West Virginia State Government EEO Complaints Questions & Answers

What is EEO mediation?

Mediation is an informal process in which a trained mediator assists parties to reach a negotiated resolution to a charge of illegal harassment or discrimination. The mediator does not decide who is right or wrong and has no authority to impose a resolution on the parties. Mediation provides a neutral and confidential setting where both parties can openly discuss information about the underlying dispute. Only trained mediators who are unbiased in the case are utilized.

Is mediation required?

No. Participation in mediation is strictly voluntary. If either party declines to participate in mediation, then it may not go forward. It is your right to proceed directly to a formal EEO investigation or circuit court rather than enter mediation.

Is mediation confidential?

Yes. The WVEEO maintains strict confidentiality in its mediations. The mediator, the agency and the parties must sign an agreement to mediate form (WVEEOAMF18) that includes confidentiality provisions. The mediation session(s) are not tape-recorded or transcribed. Notes taken during the mediation by the mediator are destroyed.

Who attends mediation sessions?

The complainant(s) and the respondent(s) attend the mediation session.

Can I bring an attorney or other representative to the mediation session?

Yes. Although not necessary, it is your right to have an attorney/representative present. However, a mediation is not a trial. Your attorney/representative may provide advice and counsel to you but may not speak for you, nor may your attorney/representative pose questions or make comments to the other party or the mediator.

How long does the mediation process take?

Mediation is efficient and saves time and money. Most mediations last three – four hours. Successful mediations avoid a time-consuming investigation and achieve prompt resolution of the complaint.

Are resolutions reached during mediation binding?

Yes. Once all the parties sign an agreement reached during mediation, the agreement is binding and legally enforceable on all parties.

Can information revealed during a mediation be used during an investigation if mediation is unsuccessful?

No. The entire mediation process is confidential. Information revealed during the mediation cannot be used during any subsequent investigation.

What happens if a complaint is not resolved in mediation?

If not resolved in mediation, the complaint will be investigated using the normal EEO investigatory procedures set forth by the WVEEO Office and/or by your state agency.